

REMARKS

Applicants have carefully reviewed the Final Office Action mailed on February 5, 2010, prior to preparing this response. Currently, claim 15 is pending in the application and has been rejected. With this response, claim 15 is amended. No new matter is added. Favorable consideration of the above amendments and following remarks is respectfully requested.

Claim Rejections Under 35 U.S.C. §102

Claim 15 is rejected under 35 U.S.C. §102(e) as being anticipated by Wu et al. in U.S. Patent Pub. No. US 2004/0243156. Applicants respectfully traverse the rejection.

Claim 15 is amended to recite that the cutting blade includes a series of undulations curving from side-to-side relative to the longitudinal axis in the first inflated configuration. Support for this amendment can be found, for example, at lines 3-9 of page 11 of the specification as originally filed. Wu et al. do not anticipate this limitation.

FIG. 2 of Wu et al., relied on in formulating the rejection, shows the balloon 14 in a deflated state. See paragraph 0028 of Wu et al. ("Balloon 14 may be configured so that it includes one or more wings 42 as shown in FIG. 2. In general, wings 42 are visible and can be seen when balloon 14 is deflated.") The Office Action states that "the cutting members shown have matching waves as waves 44 on wings 42". Final Office Action, at paragraph 5. Wu et al. appears to be silent regarding any such configuration of the cutting members when the balloon is inflated. Wu et al. teaches that "When balloon 14 is inflated, wings 42 may become expanded and, thus, not visible as illustrated in FIG. 4." Wu et al., at paragraph 0034. Thus, it is likely that in the inflated state, the cutting members would extend longitudinally along a straight path, without any undulation, as there would be no wings 42, and thus no undulating surface 44 that the cutting members would match. There is no apparent teaching in Wu et al. that the cutting blades would necessarily include a series of undulations curving from side-to-side relative to the longitudinal axis when the balloon is in an inflated state. Thus, Wu et al. cannot anticipate claim 15. Consequently, Applicants respectfully submit that amended claim 15 is patentable over the cited art.

Claim 15 is rejected under 35 U.S.C. §102(e) as being anticipated by Shaw et al. in U.S. Patent No. 7,279,002. Applicants respectfully traverse the rejection.

Claim 15 recites a metallic cutting blade for severing or breaking up a lesion affixed to the balloon throughout the entire use of the cutting balloon catheter. Shaw et al. disclose a cutting blade 104 at FIG. 3. However, the cutting blade 104 shown in FIG. 3 is attached to the stent 100 and is not affixed to a balloon.

The Final Office Action indicated that the phrase “affixed to the balloon” means “that the metallic cutting blade is attached physically to the balloon in some manner” and that “[t]here is no claim requirement that the cutting blade be affixed to the balloon throughout the entire use of the device.”

While not conceding the appropriateness of the claim interpretation relied on in formulating the rejection, claim 15 has been amended in view of the Examiner’s suggestion, further distinguishing claim 15 from that disclosed in Shaw et al. at FIG. 3.

Shaw et al. disclose that the stent 100 is “for implantation in the body.” Column 3, lines 58-60. The cutting blade 104 shown in FIG. 3 is attached to the stent 100 and is not affixed to the balloon 152. Thus, once the stent 100 is implanted in the body, the cutting blade 104 remains with the stent 100 and is not attached to the balloon 152 when the balloon 152 is withdrawn at the conclusion of implanting the stent 100. For at least this reason, the cutting blade 104 is not affixed to the balloon 152 throughout the entire use of the device.

Based on these distinctions, Applicants respectfully submit that claim 15 is patentable over the cited art.

Conclusion

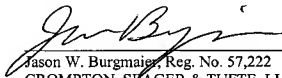
Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Karen M. Cheves et al.

By their Attorney,

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